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Fourth Statutory Review of the Groceries Code Adjudicator

Dear Liam,

I am writing to inform the Committee that, as part of the fourth statutory review of the Groceries Code Adjudicator (GCA), the Government has today published a consultation seeking the views of stakeholders on the performance of the GCA.

As you are aware, the GCA was established by the Groceries Code Adjudicator Act 2013 (“the Act”). Its role is to monitor and enforce the Groceries Supply Code of Practice (“the Code”), which the UK’s designated large grocery retailers must comply with when dealing with their direct suppliers.

The Act requires the Government to review periodically the performance of the GCA. The first review covered the period from the creation of the GCA (in June 2013) to 31 March 2016, the second review covered the period from 1 April 2016 to 31 March 2019 and the third review covered the period from 1 April 2019 to 31 March 2022.

The statutory review is not a review of the Code or the remit of the GCA. The Code is a competition measure owned by the Competition and Markets Authority as the UK’s independent competition authority.

The fourth review will look back over the period 1 April 2022 to 31 March 2025 and seek views and evidence which will allow the Secretary of State to make an assessment of the performance of the GCA against measures set out in the Act. These measures are explained in the Terms of Reference, which I attach to this letter.

As part of the consultation, the Government is also interested in seeking views on how the GCA is operating following the establishment of the Agricultural Supply Chain Adjudicator (ASCA) and any evidence of unfair contractual practices that may have a negative impact on parts of the supply chain not covered by the Code or the Fair Dealings Regulations. Whilst this information is not directly relevant for assessing the performance of the GCA over the past three years, the Government thinks it would be useful to gather information on this.

The Act requires the Secretary of State to consult the following:

- the GCA;
- the Competition and Markets Authority;
- the retailers subject to the Code;
- one or more persons representing the interests of suppliers;
- one or more persons representing the interests of consumers; and
- any other appropriate person (the Secretary of State has not identified any specific person or persons here and welcomes contributions from any interested person).

The consultation will run for 12 weeks. Stakeholders have until 5 August 2025 to respond. Following this, the Secretary of State will analyse the responses and consider other publicly available information on the GCA's performance. A report on the findings will then be published and laid before Parliament. I am placing a copy of this letter and the Terms of Reference for the GCA Review in the Libraries of both Houses.

I am writing in similar terms to Alistair Carmichael MP as Chair of the Environment, Food and Rural Affairs Select Committee, given the committee's interest in the food supply chain.

Yours ever,

A handwritten signature in black ink, appearing to read 'Justin Madders', with a long horizontal flourish extending to the right.

JUSTIN MADDERS MP

Minister for Employment Rights, Competition and Markets
Department for Business and Trade

Statutory Review of the Groceries Code Adjudicator

Terms of Reference

This document sets out the terms of reference for the government's fourth review of the Groceries Code Adjudicator ("the GCA Review"). Its purpose is to explain the issues that will be examined by the GCA Review.

Section 15 of the Groceries Code Adjudicator Act 2013 requires the Secretary of State to review the Groceries Code Adjudicator's performance every 3 years, with the fourth review period covering the period from 1 April 2022 to 31 March 2025.

The GCA Review covers the statutory requirements which the government is obliged to fulfil under the Groceries Code Adjudicator Act 2013 ("the Act").

The Statutory Review

The Act requires the government to look at the GCA's performance and at specific Order-making powers contained within the Act. The terms of reference will set out how the obligations in relation to the statutory review will be met.

Term of Reference 1

Consider the GCA's performance from 1 April 2022 to 31 March 2025.

This will in particular:

- Consider how much the GCA's powers have been exercised; and
- Assess how effective the GCA has been in enforcing the Groceries Code ("the Code").

Term of Reference 2

Consider whether it would be desirable for the Secretary of State to exercise his Order-making powers contained in Section 9(6) and Section 15(11) of the Act.

This will consider whether:

- To make an Order setting out the information that the GCA may consider when deciding whether to investigate;
- To amend or replace the Groceries Code Adjudicator (Permitted Maximum Financial Penalty) Order 2015.

Consultation process

The following will be consulted:

- (a) The GCA;
- (b) The Competition and Markets Authority;

- (c) The retailers mentioned in Article 4(1)(a) and (b) of the Groceries Supply Order¹;
- (d) One or more persons representing the interests of suppliers;
- (e) One or more persons representing the interests of consumers; and
- (f) Any other person*.

*See Explanatory notes below.

Next steps

As soon as practicable after the consultation period, the Secretary of State will:

- Publish a report of the findings of the GCA Review; and
- Lay a copy of the report before Parliament.

Explanatory notes

In preparing these terms of reference we have fulfilled the requirements of the Act.

Section 15(8) of the Act sets out the persons that must be consulted as part of the review. Paragraph (g) of section 15(8) says that includes any other person the Secretary of State thinks appropriate. The Secretary of State has not identified any other specific person or persons he wishes to consult but welcomes contributions from any interested person.

¹ At the date of this document these retailers are: Asda Stores Ltd; Co-operative Group Ltd; Marks & Spencer plc; Wm Morrison Supermarkets Ltd; J Sainsbury plc; Tesco plc; Waitrose Ltd; Aldi Stores Ltd; Iceland Foods Ltd; Lidl GB Ltd; B&M European Value Retail S.A.; TJ Morris Ltd, trading as Home Bargains; Ocado Retail Ltd; and Amazon.com, Inc.